

REMARKS

Claims 1, 3, 9, and 11 have been amended.

Claims 1 - 16 are present and pending in the subject application.

In the final Office Action of July 23, 2008, the Examiner has rejected claims 1 - 16 under 35 U.S.C. §103(a). Favorable reconsideration of the subject application and allowance of all of the pending claims are respectfully requested in view of the following remarks.

The Examiner has rejected claims 1, 2, 8 - 10, and 16 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,588,017 (Calderone) in view of U.S. Patent Application Publication No. 2003/0174048 (McCorkle). Briefly, the present invention embodiments are directed toward a primary device that detects the proximity of additional remote devices, which are intended to be within the same local network. The primary device communicates with the remote devices using wireless communication. In the event that the remote devices are outside of a predetermined range, the remote devices are disabled from receiving program services.

The Examiner takes the position that the Calderone patent discloses the claimed subject matter, except for a primary device determining a distance between the primary device and each remote device via the wireless accessory, and facilitating disablement of said program services to each remote device with said determined distance from said primary device exceeding a predetermined distance. The Examiner further alleges that the McCorkle publication discloses these features, and that it would have been obvious to combine the Calderone patent and the McCorkle publication to attain the claimed invention.

This rejection is respectfully traversed. However, in order to expedite prosecution of the subject application, independent claims 1 and 9 have been amended, and recite the features of: the primary device, in response to receiving a proximity detection request from the headend facility, determining a distance between the primary device and each remote device via the wireless accessory to identify each remote device with the determined distance from the primary device exceeding a predetermined distance, communicating each identified remote device to the headend facility to facilitate disablement of the program services to each identified remote device, and selectively disabling the program services to each identified remote device in accordance with direction from the headend facility.

The Calderone patent does not disclose, teach or suggest these features. Rather, the Calderone patent discloses a master subscriber station, a low-cost slave subscriber station, and a 900 MHz link for communication between the master subscriber station and the low-cost slave subscriber station. The slave station is designed to rely on the master station for certain functions and can therefore be designed at a lower cost. Accordingly, there is no disclosure, teaching or suggestion of the primary device receiving a proximity detection request from the headend and, in response to that request, the primary device determines a distance between the primary device and each remote device via the wireless accessory to identify each remote device with the determined distance from the primary device exceeding a predetermined distance, communicates each identified remote device to the headend facility to facilitate disablement of the program services to each identified remote device, and selectively disables the program services to each identified remote device in accordance with direction from the headend facility

as recited in the independent claims. In fact, the Examiner concedes this at Page 3 of the Office Action.

The McCorkle publication does not compensate for the deficiencies of the Calderone patent. Rather, the McCorkle publication discloses an identification (ID) tag in which radio frequency (RF) circuitry and ultrawide bandwidth (UWB) circuitry are both provided on the same tag, along with some UWB-RF interface circuitry. The RF circuitry is used to detect when the identification tag must be accessed, and is used to connect the UWB circuitry with a power supply. The UWB circuitry then performs the necessary communication functions with a distant device and the power supply is again disconnected. In this way the power supply is only accessed when the UWB circuitry is needed and its usable lifetime can be maximized. In addition, the McCorkle publication discloses a distance determining message to compute distance between a local device and a remote device (ID tag) using round trip transmission times. When the ID tag is beyond or within a certain distance, communication between the local device and the ID tag is respectively blocked or enabled by the local device. The blocking is performed at the MAC layer for system efficiency (e.g., See Abstract; Column 13, lines 33 – 48; Column 15, lines 42 – 44; and Column 18, lines 6 – 21).

Thus, the McCorkle publication discloses a local device that blocks or enables communication with an ID tag depending on range. There is no disclosure, teaching or suggestion of disabling program services via a primary (local) device in response to requests and direction from a headend facility as recited in the independent claims. In other words, the Examiner has rejected the claims based on different portions of the claimed features being

allegedly disclosed by the Calderone patent (e.g., primary and remote devices) and McCorkle publication (e.g., disabling communication). However, even assuming that these features are disclosed by those documents, neither the Calderone patent nor the McCorkle publication disclose **the interaction between the primary device and headend facility** to disable program services to the remote device (e.g., the primary device receiving a request from the headend facility and, in response to that request, determining distances between the primary and remote devices, communicating to the headend facility the remote devices exceeding a predetermined distance from the primary device, and selectively disabling program services under direction from the headend facility) as recited in the independent claims.

Since the Calderone patent and the McCorkle publication do not disclose, teach or suggest, either alone or in combination, the features recited in independent claims 1 and 9 as discussed above, these claims are considered to be in condition for allowance.

Claims 2, 8, 10, and 16 depend, either directly or indirectly, from the independent claims 1 or 9 and, therefore, include all the limitations of their parent claims. The dependent claims are considered to be in condition for allowance for substantially the same reasons discussed above in relation to their parent claims, and for further limitations recited in the dependent claims.

The Examiner has rejected claims 3 and 11 under 35 U.S.C. §103(a) as being unpatentable over the combination of the Calderone patent and McCorkle publication, in further view of U.S. Patent No. 7,039,169 (Jones).

Briefly, the present invention embodiments are directed toward a primary device that detects the proximity of additional remote devices as described above.

The Examiner takes the position that the combination of the Calderone patent and McCorkle publication disclose the claimed subject matter, except for the primary device receiving a proximity detection request from the headend facility and, in response, the primary device transmits a signal indicating the presence or absence of the at least one remote device within the predetermined distance. The Examiner further alleges that the Jones patent discloses these features, and that it would have been obvious to combine the Calderone patent, McCorkle publication, and Jones patent to attain the claimed invention.

This rejection is respectfully traversed. Initially, claims 3 and 11 respectively depend from independent claims 1 and 9, and, therefore, include the limitations of their parent claim. Claims 3 and 11 have been amended for further clarification and/or consistency with their amended parent claims. As discussed above, the combination of the Calderone patent and McCorkle publication does not disclose, teach or suggest the features of a primary device receiving a proximity detection request from the headend and, in response to that request, the primary device determines a distance between the primary device and each remote device via the wireless accessory to identify each remote device with the determined distance from the primary device exceeding a predetermined distance, communicates each identified remote device to the headend facility to facilitate disablement of the program services to each identified remote device, and selectively disables the program services to each identified remote device in accordance with direction from the headend facility as recited in the claims.

The Jones patent does not compensate for the deficiencies of the Calderone patent and McCorkle publication. Rather, the Jones patent discloses apparatus and methods that allow

detection and authentication of multiple devices within a subscriber dwelling. A system is described generally comprising multiple devices, **each adapted to receive a broadband signal from the service operator** and including a modem coupled to a telephone line (e.g., See Fig. 1; Abstract; Column 4, lines 41 - 49).

At least one of the devices is configured to be a “master” and receive entitlement information corresponding to the other devices via the broadband signal (e.g., See Abstract; Column 7, lines 41 - 44; and Column 8, lines 14 - 18). The master uses the entitlement information to **periodically** authenticate the other devices via the telephone line, where the authentication includes comparing an identification string received by the master from a slave device to a list of devices expected to be at the dwelling inserted within the entitlement information (e.g., See Abstract; Column 7, lines 61 - 65; and Column 8, lines 25 - 38). In the event one or more slave devices are not authenticated, **the “master” device enters a state of minimal functionality** (e.g., See Column 8, lines 50 - 53). The “master” periodically performs the authentication, typically at night (e.g., See Abstract; Column 8, lines 25 - 26; and Column 10, lines 57 - 60).

Thus, the Jones patent discloses devices at a dwelling each independently receiving the broadband signal (or program services) from the service provider, where a device is a “master” for authentication purposes only as discussed above. Accordingly, there is no disclosure, teaching or suggestion of a primary device distributing audio/video signals from a headend facility to at least one remote device as recited in the claims. Further, since the Jones patent discloses authentication based on a comparison of device identifiers as discussed above, there is

no disclosure, teaching or suggestion of determining a distance between the primary device and each remote device via the wireless accessory to identify each remote device with the determined distance from the primary device exceeding a predetermined distance and communicating each identified remote device to the headend facility to facilitate disablement of the program services to each identified remote device as recited in the claims. Moreover, the Jones patent discloses that the “master” device enters a state of minimal functionality in response to one or more devices not being authenticated. Since the “master” device is for authentication purposes and does not distribute the program signals to the other devices as discussed above, there is no disclosure, teaching or suggestion of a primary device selectively disabling program services to the remote device as recited in the claims. In addition, the Jones patent discloses that the “master” device simply receives authentication information (identifier list) in the broadband signal, and periodically authenticates the other devices as discussed above. Therefore, there is no disclosure, teaching or suggestion of a primary device performing distance measurements in response to a request from a headend facility and selectively disabling programming services to remote devices in accordance with direction from the headend facility as recited in the claims.

Since the Calderone and Jones patents and the McCorkle publication do not disclose, teach or suggest, either alone or in combination, the features recited in claims 3 and 11 as discussed above, these claims are considered to be in condition for allowance.

The Examiner has rejected claims 4, 5, 12, and 13 under 35 U.S.C. §103(a) as being unpatentable over the combination of the Calderone patent, McCorkle publication and Jones patent, in even further view of International Publication No. WO 02/07378 (Jacobs et al.).

Briefly, the present invention embodiments are directed toward a primary device that detects the proximity of additional remote devices as described above.

The Examiner takes the position that the combination of the Calderone patent, McCorkle publication, and Jones patent disclose the claimed subject matter, except for the headend facility discontinuing program services to the at least one remote device. The Examiner further alleges that the Jacobs et al. publication discloses these features, and that it would have been obvious to combine the Calderone patent, McCorkle publication, Jones patent, and Jacobs et al. publication to attain the claimed invention.

This rejection is respectfully traversed. Initially, claims 4 - 5 and 12 - 13 respectively depend from independent claims 1 and 9, and, therefore, include the limitations of their parent claims. As discussed above, the combination of the Calderone patent, McCorkle publication and Jones patent does not disclose, teach or suggest the features of a primary device receiving a proximity detection request from the headend and, in response to that request, the primary device determines a distance between the primary device and each remote device via the wireless accessory to identify each remote device with the determined distance from the primary device exceeding a predetermined distance, communicates each identified remote device to the headend facility to facilitate disablement of the program services to each identified remote device, and selectively disables the program services to each identified remote device in accordance with direction from the headend facility as recited in the claims.

The Jacobs et al. publication does not compensate for the deficiencies of the Calderone patent, McCorkle publication, and Jones patent. Rather, the Jacobs et al. publication discloses a

secure packet-based data broadcasting architecture, and is merely utilized by the Examiner for an alleged teaching of a headend sending commands contained in EMMs to a set-top box to deactivate a subscriber or delete an entitlement.

Since the Calderone and Jones patents and the McCorkle and Jacobs et al. publications do not disclose, teach or suggest, either alone or in combination, the features recited in claims 4, 5, 12, and 13 as discussed above, these claims are considered to be in condition for allowance.

The Examiner has rejected claims 6, 7, 14, and 15 under 35 U.S.C. §103(a) as being unpatentable over the combination of the Calderone patent and McCorkle publication, in further view of U.S. Patent Application Publication No. 2003/0063003 (Bero et al.).

Briefly, the present invention embodiments are directed toward a primary device that detects the proximity of additional remote devices as described above.

The Examiner takes the position that the combination of the Calderone patent and McCorkle publication disclose the claimed subject matter, except for the primary device including a set-up procedure that includes detecting and storing the distance between the primary device and the at least one remote device, wherein the detected distance becomes the predetermined distance. The Examiner further alleges that the Bero et al. publication discloses these features, and that it would have been obvious to combine the Calderone patent, McCorkle publication, and Bero et al. publication to attain the claimed invention.

This rejection is respectfully traversed. Initially, claims 6 - 7 and 14 - 15 respectively depend from independent claims 1 and 9, and, therefore, include the limitations of their parent claims. As discussed above, the combination of the Calderone patent and McCorkle publication

does not disclose, teach or suggest the features of a primary device receiving a proximity detection request from the headend and, in response to that request, the primary device determines a distance between the primary device and each remote device via the wireless accessory to identify each remote device with the determined distance from the primary device exceeding a predetermined distance, communicates each identified remote device to the headend facility to facilitate disablement of the program services to each identified remote device, and selectively disables the program services to each identified remote device in accordance with direction from the headend facility as recited in the claims.

The Bero et al. publication does not compensate for the deficiencies of the Calderone patent and McCorkle publication. Rather, the Bero et al. publication discloses personal location monitoring in a wireless communication system, and is merely utilized by the Examiner for an alleged teaching of detecting and storing distance by measuring received signal strength.

Since the Calderone patent and the McCorkle and Bero et al. publications do not disclose, teach or suggest, either alone or in combination, the features recited in claims 6, 7, 14, and 15 as discussed above, these claims are considered to be in condition for allowance.

In view of the foregoing, Applicants respectfully request the Examiner to find the application to be in condition for allowance with claims 1 - 16. However, if for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is respectfully requested to call the undersigned attorney to discuss any unresolved issues and to expedite the disposition of the application.

Filed concurrently herewith is a Petition (with payment) for an Extension of Time of Two Months and a Request for Continued Examination (RCE). Applicants hereby petition for any extension of time that may be necessary to maintain the pendency of this application. The Commissioner is hereby authorized to charge payment of any additional fees required for the above-identified application or credit any overpayment to Deposit Account No. 05-0460.

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